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C O N F I D E N T I A L SECTION 01 OF 02 GUATEMALA 001361

SIPDIS

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TAGS: [MOPS](#) [PREL](#) [GT](#)

SUBJECT: (C) DIFFICULT POLITICS OF ARTICLE 98 PASSAGE

REF: GUATEMALA 1055

Classified By: Acting PolChief Erik Hall for reasons 1.5 (b&d).

1. (C) Summary. As reported reftel, the GOG signed an Article 98 agreement on April 28 but requested that we keep the agreement confidential while it devises a strategy to gain Congressional approval. MFA Vice Minister Skinner-Klee told DCM on May 25 that the GOG remains absolutely committed to Article 98 ratification, but does not want to submit it to Congress for ratification during the current special session for a variety of reasons, including:

-- the political imperative of getting fiscal reforms approved demands the GOG's full attention;

-- Article 98 is too sensitive/controversial to be spotlighted in an extraordinary session of Congress;

-- shifting political alliances within Congress make vote-counting difficult right now, and the GOG needs to see how the alliances settle out before they will be able to count the votes needed for this issue;

-- FM Briz needs to shore up his own political bases before pushing Article 98 in Congress;

-- events at Abu Ghraib have given powerful ammunition to Article 98 critics, making this a particularly inopportune time to present the agreement for congressional and public debate.

The Berger Administration therefore prefers to submit Article 98 to Congress for ratification during the regular session starting August 1, and to avoid as much as possible a politicization of the issue. While the latter may be wishful thinking, we concur that submitting Article 98 during the current special session of Congress could be fatal. End Summary.

2. (C) In a meeting with DCM on May 25, MFA Vice Minister Jorge Skinner-Klee said the current special session of Congress is focused on the political imperative of getting fiscal reforms approved before July 30. This is the Berger Administration's highest political priority, and demands the GOG's full attention. Introducing Article 98 during the current extraordinary session of Congress would distract from fiscal reform passage and attract unwanted controversy to the agreement. Shifting political alliances within Congress make vote-counting difficult right now. (Note: the ruling GANA coalition, the FRG and the Unionista Party appear to be in agreement to pass the fiscal reforms, and the PAN may also join in support, according to Presidential Chief of Staff Eduardo Gonzalez. End Note.) The GANA coalition suffered the loss of the Patriot Party over its dialogue with the FRG. It is unclear whether the fiscal pact alliance could be replicated on other issues, including Article 98. Skinner-Klee said FM Jorge Briz needs to shore up his own political bases before pushing Article 98 in Congress. (Note: We have heard unconfirmed rumors that Briz might be considering resigning. End Note.)

3. (C) Skinner-Klee also said recent revelations from Abu Ghraib have given powerful ammunition to Article 98 critics. He argued that effective US action against the culprits will help counter that criticism.

Comment

4. (C) News of the signing of the Article 98 agreement has not yet become public here. When it does, it will provoke strong criticism from human rights groups, which have formed an ad-hoc Commission in Support of the International Criminal Court and are actively lobbying the GOG against any Article 98 agreement. Opposition to Article 98 is likely to be concentrated in civil society and the smaller leftist parties including the UNE, ANN, and URNG.

5. (C) We concur with the GOG's caution over how to deal

with Congress. Any move to ratify the agreement during the extraordinary session, which is focused almost exclusively on the issue of fiscal reforms, would likely cause another political firestorm like the one the GANA faced after it became clear that Berger was in dialogue with FRG leader Rios Montt.

16. (C) Prospects for passage of the fiscal reforms are good, as a result of Berger's willingness to work with the FRG and to consider marginal changes and incentives demanded by other opposition parties. By deferring the Article 98 debate until after the fiscal reforms are approved, the prospects also improve for the emergence of a working coalition which could also support Article 98 ratification. We will continue to discuss how the USG can best assist the GOG's efforts to approve the agreement.

HAMILTON